GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri Thadanki Ajay Stephen, S/o Kambham Mary Sunitha, Occ: Student, R/o Gondole(V), Addateegala (M), East Godavari District under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (A.P. Act No.16/1993) against the Proceedings No. Ref.C5(M)648/2010, dated 29.07.2013 of the District Collector, East Godavari District in cancelling the ST-VALMIKI Caste Certificate of the Petitioner – Appeal Petition allowed – Orders - Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.Ms.No.29. Dated: 03.11.2021

Read the following:-

1. Proceedings of the District Collector, East Godavari District, No.Ref. C5(M)648/2010, dated 29.07.2013.
2. Appeal Petition filed by Sri Thadanki Ajay Stephen, S/o Kambham Mary Sunitha, Occ: Student, R/o Gondole(V), Addateegala (M), East Godavari District, dt.11.10.2013 & 12.12.2013.
3. Govt. Memo No.11430/CV.2/2013, dt.14.11.2013 & 17.01.2014
4. From the District Collector, East Godavari, Lr.No. Ref. C5/M/648/ 2012, dt.07.12.2013.
5. Govt. Memo No.11430/CV.2/2013, T.W.(CV.2), dt.17.01.2014 & 10.11.2015, 05.08.2021.

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ORDER:

In the Proceedings 1st read above, the District Collector, East Godavari has issued orders cancelling the ST 'Valmiki' Community Certificate issued to Sri Thadanki Ajay Stephen, S/o Kambham Mary Sunitha, Occ: Student, R/o Gondole(V), Addateegala (M), East Godavari District.

2. Sri Thadanki Ajay Stephen, S/o Kambham Mary Sunitha has filed Appeal Petitions before the Government against the Proceedings of the District Collector, East Godavari duly submitting grounds in support of his claim of ST 'Valmiki' Community and prayed to set aside the proceedings of the District Collector, East Godavari and also to grant stay on the operation of the said proceedings. After examining the said Appeal Petition, Government while admitting the same, had granted stay as prayed for and called for the Para-wise remarks on the grounds filed by the Appellant along with connected records from the District Collector in Memo 3rd read above.

3. In the letter 4th read above, the District Collector, East Godavari has furnished para-wise remarks along with connected records on the Appeal Petition filed by Sri Thadanki Ajay Stephen, S/o Kambham Mary Sunitha.

4. The said Appeal Petition has been posted for hearing on 21.08.2021 before the Hon'ble Appellate Authority duly informing the same to the Appellant and the Counsel for the Appellant in the Memo 5th read above. The appellants and their counsel have attended the said hearing on 21.08.2021. On perusal of the records/ the copies of evidences/ academic record/ grounds filed by the Appellant and the para-wise remarks submitted by the District Collector, East Godavari and proceedings of the District Collector, East Godavari, dated 29.07.2013, the Appellate authority has observed that;

I. The grounds put-forth by the appellant in support his claim of ST 'Valmiki' community is as follows:

1. The order under appeal is contrary to law, weight of evidence and probabilities of the case.
2. The order of the District Collector canceling the community certificate of the Appellant is liable to be set aside for not giving proper opportunity and is in violation of principle of natural justice.

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3. The order of the District Collector is liable to be set aside for not referring the matter to the District Level Scrutiny Committee which is mandatory under Rule-8 and 9 of the A.P.(SC,ST & BCs) regulation of issue of Community Certificates Rules, 1997.
4. The District Collector failed to see that the family members of the Appellant herein i.e., the mother of the Appellant and others are already declared as Scheduled Tribe (Valmiki) by the District Collector, East Godavari District at Kakinada vide Proc. Dt 17.5.2004.
5. The District Collector ought to have seen that under the guidelines issued under G.O.Ms.No.371, dt: 13.4.1976 the child born through an inter caste marriage can be treated as Scheduled Tribe though one of the spouse belongs to Non –ST.
6. The District Collector failed to consider the guidelines of the Government of India dt: 04.03.1975 regarding the status of children born in respect of the inter caste marriages.
7. The District Collector passed order impugned in the appeal without following the mandatory rules as contemplated under AP(SC, ST & BCs) Regulation of issue of Community certificates Rules, 1997.

II. The District Collector, East Godavari has furnished the following remarks on the above grounds as follows:

1. The father of Sri Ajay Stephen viz Thadanki Buzi Samuel Subhakar admitted that he belongs to BC-C community and native of Eluru, West Godavari which is not an agency area and the surname "Thadanki" is not found in any of the entries i.e, Birth and Death Registers. He too deposed that he was moving along with his wife and children as he is unemployed and his wife is a Bank Employee to wherever she is posted. It is evident from the deposition that they lived in Agency Gangavaram till 1994 only and after that never resided in agency area and Sri Ajay Stephen is born in 1994. Since his birth, he neither resided nor attended the school on agency areas. After due consideration of all the records and documents filed by the writ petitioner and field level officers, I felt that this case need not to be refer to District Level Scrutiny Committee. As such this case was finalized under law duly filing an opportunity to the present petitioner.
2. The main contention of the petitioner is that the case did not refer to the District Level Scrutiny Committee. In this regard, it is submitted that the field level officers confirmly reported that the candidate did not belongs to ST Valmiki and did not express any doubt and not recommended to place the matter before DLSC. The writ petitioner did not file any documentary evidence to establish his caste as "Valmiki". Further, the Hon'ble High Court has also directed to dispose the case within 15 days only. There is also documentary evidence which shows that the present writ petitioner never resided in Agency area. As such there is no violation of rules/ procedure as laid down in the act 16/93 in disposal of the caste status of writ petitioner.
3. The petitioner was never brought up in the agency area and hence the question of recognizing him by the community does not arise even though the villagers / community people have given their acceptance. In the deposition given by the father of Sri Ajay Stephen admitted that he belongs to Adi-Andhra Christian (BC-C) the surname of mother of Sri Ajay Stephen is kambham actually as per the birth & death registers of years 1926, 1931, 1933, 1942 of gondola village against the surname "kambham" the caste mentioned as "Madiga" Mala Christian etc., and now it was mentioned as Scheduled Tribe- Valmiki. But by virtue of order issued by the Collector, E.G. Kakinada wherein it was confirmed that the caste status of Khambham John Bhaskara Rao and his family members as Valmiki (ST), she being daughter of the said John Bhaskara Rao got Schedule Tribe–Valmiki status. The sub Collector, Rampachodavaram stated as per above, it is construed that prior to the orders of the Collector, EG Kakinada the caste of the mother was not ST and thus both the parents of the applicant are non Tribals only.

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4. The Government of Andhra Pradesh issued G.O.Ms.No.91, dtd: 3.10.2007 & deletion of para 2 in G.O.Ms No.371, dt 13.4.1976 shows that in view of the advise of the Law Department, Government hereby order that the para 2 of G.O.Ms.No.371, E&SW(B2) Department, dt:13.4.1976 is hereby deleted with immediate effect. The petitioner contents are not considered as per the said G.O.Ms No.91.
5. As per the Min. of Home Affairs, GOI LR.No.39/37/79/SCT-1, Dated: 4.3.1973, Annexure – B inter caste marriage couple children who follow the customs & traditions and accepted by his scheduled Tribe Community people, shall be treated as ST Valmiki. Further she has stated that enquiry be conducted as per the Guidelines of G.O.MS No. 91 Dated: 3.10.2007. It is submitted that the G.O.Ms.No.91, dt: 3.10.2007 related to sanction of certain incentives and non-statutory educational concessions like Scholarships, hostel facilities fee concessions etc only. It is further submitted that with regard to GOI Lr the enquiry also conducted on the education area of the candidate has to be considered. In the present case, the education of the candidate in question was held in plain area.
6. There is also documentary evidence showing that the present writ petitioner never resided in Agency area. As such there is no violation of rules/ procedure as laid down in the Act 16/93 in disposal of the caste status of writ petitioner.
7. The section 5(1) of the Act 16/93 narrated that the competent authority shall refer the case to District Level Scrutiny Committee in cases of doubtful claims only. The intention of this rule is that if the competent authority is in doubt on the claims even after conducting enquiry, then only the matter should be referred to District Level Scrutiny and review Committee but not each and every doubtful cases without exhausting detailed enquiry.

III. During the course of hearing of the case, the Appellate Authority has observed/opined that;

1. The Appeal Petition is filed by Sri Thadanki Ajay Stephen, S/o Kambham Mary Sunitha against the proceedings of the District Collector, East Godavari District for cancellation of ST Valmiki caste certificates.
2. During the course of arguments that the appellant submitted his arguments have stated that his mother belongs to Valmiki caste and brought up in the community as such he is also same community as such on that score alone, he is able to prove his caste is ST Valmiki.
3. On verification of the arguments, the documents, the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that admittedly the mother of the appellant belongs to ST Valmiki Community and married man from other Community and by virtue of her employment she shifted to several places. The appellant is the son of the tribal mother and non tribal father and the circumstances of living the family at various places is that the mother being an employee only as such the social status of the appellant can be taken as tribal community basing on the community of the mother and in view of Grama Sabha resolution as the tribal community accepted that the children belongs to tribal community.
4. That taking consideration of the above and the material available on the record, it can be concluded that the lower authority failed to observe the finding of the concerned above and after careful examination of the appeal petition and the circumstances stated supra that in exercise of the powers conformed under the act and the rules, the appeal is hereby allowed filed by the appellant by upholding the children are schedule tribe (Valmiki) and the lower authority proceeding is to be Set-aside and accordingly the same is hereby setaside.

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5. Government, after careful examination of the appeal petition and in exercise of the powers conferred under Section 7(2) of A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), and rules made there under, hereby allow the appeal petition filed by Sri Thadanki Ajay Stephen, S/o Kambham Mary Sunitha, Occ: Student, R/o Gondole(V), Addateegala (M), East Godavari District and the Proceedings No. Ref.C5(M)648/2010, dated: 29.07.2013 of the District Collector, East Godavari District are hereby set-aside duly upholding the Scheduled Tribe (Valmiki) claim of the appellant.

6. The District Collector, East Godavari is directed to take necessary consequential action in the matter, accordingly.

7. The records (C5/M/648/2012) containing pages (CF: 1 to 619) received from the District Collector, East Godavari through in the reference 4th read above, are returned herewith in original to the District Collector, East Godavari and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT

To
The District Collector, East Godavari.(w.e)
(With original record) (BY RPAD)

Sri Thadanki Ajay Stephen, S/o Kambham Mary Sunitha,
Occ: Student, R/o Gondole(V), Addateegala (M),
East Godavari District.

Mr. K. Venkatesh, Mr. M. Babji, Advocates,
H.No.1-1-180/23, RTC X Roads, Hyderabad-20.

Copy to :
The Director, TCR& TI, AP, Hyderabad.
(with a request to attend the said hearing along with relevant material)
The PS to M(SWE& TWE).
The PS to Prl. Secretary(TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER